HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 638(S/S)2006

Arivnd Kumar S/o late Prem Singh,
R/o Mahuva Dabara Jaspur, Kashipur, U.S. Nagar,
Posted as Asstt. Teacher, Primary School,
Gangapur-chet, Jashpur, U.S. Nagar. ---- Petitioner.

Vs.

1. Director of Education Basic U.P. Allahabad,
2. State of U.P. through Secretary Education (Basic),
   U.P. Lucknow.
3. State of Uttaranchal through
   Secretary Education (Basic)
   Uttaranchal, Dehradun.
4. Director of Education (Basic),
   2, Subhash Road, Dehradun,
   Uttaranchal.
5. Additional District Education Officer (Basic),
   Rudrapur, District Udham Singh Nagar,
6. B.S.A./ Additional District Education Officer (Basic),
   Nainital. ---- Respondents.

Sri S.S. Negi, learned counsel for the petitioner.
Smt. Beena Pandey, ld. Asstt. Standing Counsel for the respondent no1. 1 & 2.
Learned Standing Counsel for the respondent nos. 3 to 6.

Hon'ble M.M. Ghildiyal, J.

Heard Sri S.S. Negi, learned counsel for the petitioner, Smt. Beena Pandey, learned Additional Standing Counsel for the State of U.P./ respondent no1. 1 & 2 and learned Standing counsel for State of Uttaranchal/ respondent nos. 3 to 6.

2. By the present writ petition, the petitioner has prayed for the following reliefs:-

i. Issue a writ, order or direction in the nature of mandamus commanding the respondent to pay the difference of pay of Rs. 850/- and Rs. 1100-1710 p.m. w.e.f. 04.04.1995 to 14.09.2000 which is due upon the respondents and the seniority of the petitioner may be reckoned from the date of the initial appointment w.e.f. 04.04.1995.

ii. Issue a writ order of direction in the nature of mandamus commanding the respondents to follow the U.P. Recruitments of the dependants of the Govt. servants dying in harness Rules 1974 and the respondents may be directed to comply with the rules dated 21st Dec. 1973 which is prescribed for the appointment of U.P. Dying in Harness Rules 1974 and under section 5 Sub section 1 of the U.P. Recruitments of dependants of the Govt. servants U.P. Dying in Harness Rules 1974 and the respondents may be directed to perused the C.P.Ed. Passed certificate of the petitioner dated 23 Dec. 1994.

iii. Issue an Ad-interim relief to the petitioner against the respondents that during the pendency of this writ petition the seniority of the petitioner be reckoned from the date of his initial appointment w.e.f. 04.04.1995 annexure no. 1 and forthwith to give the differences of monthly pay of the petitioner from the pay-scale of Rs. 850/ and Rs. 1100-1710 w.e.f. 04.04.1995 to 14.09.2000 which is due upon the respondents,

iv. Issue a suitable writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case.

v. Award the cost of the petition to the petitioner from the respondents.

3. Submission of the learned counsel for the petitioner is that the petitioner was appointed as Assistant Teacher in Primary School, Gangapurchet, Jaspur, under dying-in-harness Rules, vide order dated 04.04.1995. The petitioner was fully eligible to the appointed as Assistant Teacher, as he has got Diploma in C.P.Ed. In the year 1994 from Amravati, Maharashtra. Inspite of his having qualifications, he was not given the regular pay-scale of Assistant Teacher and he has been appointed on a consolidated salary of Rs. 840/- per month.

4. Submission of the learned counsel for the petitioner is that similarly situated persons have been provided regular pay-scale of Assistant Teacher, however the petitioner who is

qualified to be appointed as Assistant Teacher in primary school, has not been provided regular pay-scale. It is submitted that for redressal of his grievances, the petitioner has already made representation to the respondent no. 5 which is still pending before him.

6. During the course of argument, the petitioner has confined his prayer that the respondent no. 5 may be directed to take decision on his representation already filed by him on 04.04.2006, which is annexure no. 4 to the writ petition) within a particular period prescribed by the Court.

7. The prayer is innocuous.

8. Accordingly, I direct the respondent no. 5 to take decision on the representation of the petitioner moved by him on 04.04.2006 (annexed as annexure no. 4 to the writ petition) within a period of two months from the dated of production of a certified copy of this order.

9. With this direction, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

May 10, 2006:
NCM: